UNITED STATES PATENT AND TRADEMARK OFFICE

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ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 January 2006*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *28-55* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *28-55* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This Non-Final Office Action is responsive to Applicant's amendment filed

January 16, 2006. Applicant has canceled claims 1-27, and has added new claims 28-

55, which are pending in the application.

Continued Examination Under 37 CFR 1.114

2.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January

16, 2006 has been entered.

Response to Arguments

3.   Applicant's arguments filed January 12, 2006 have been fully considered but they

are not persuasive.

Applicant argues that Thompson et al. does not disclose any mechanism

comparable to analyzing the likelihood of an increase in sales or analyzing a likelihood

of an increase of any other quantity.

The Examiner respectfully disagrees. Any temporary or substitute worker

provided by a service provider generates an increase in income/revenue/sales for said

service provider. The Examiner asserts that every opportunity for the service provider to

provide a temporary or substitute worker is an opportunity for an increase in sales.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

5.   Claims 29-30 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

Regarding Claim 29, the accounting manager as claimed is merely configured to

cooperate with claimed event matcher to provide an accounting functionality; however

the system does not actually perform the claimed steps. For the purposes of

examination, the examiner assumes the applicant will amend the claim to recite that

accounting manager actually cooperates with the claimed event matcher in order to

provide an accounting functionality.

Use of the word "may" implies that the recited steps are optional, thereby

rendering the scope of claim 29 indefinite. Furthermore, it is not understood who/what

performs the accounting functionality. It is unclear whether a human or a computer

program/module is used to perform/provide the accounting functionality.

Claim 30 is dependent on claim 29 and is also rejected under 35 U.S.C. 112,

second paragraph.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 28-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Thompson et al (U.S Patent #6,675,151).

As per claim 28, Thompson et al. teaches a computer-based **(computer-implemented)** system utilizing an event matching system for service providers, said system comprising:

(a)   a window of opportunity event generator **(substitute fulfillment system)**,

(i)   said window of opportunity event generator automatically identifying an event **(employee absence)** [Column 2, lines 5-7, Column 4, line 64 – Column 5, line 2],

(ii)   said event comprising an unexpected period of inactivity when a scheduled activity is blocked **{employee's absence creates a workshift that must be fulfilled}**;

(b)   a distribution channel analyzer,

(i)   said distribution channel analyzer analyzing said event **(employee registering an absence)** to determine whether said event is likely to generate an increase in sales **{any substitute worker provided by a service provider generates an increase in revenue/income/"sales" that would not otherwise be available}** [Column 2, lines 34-38]; and

(c)   an event matcher,

(i)   said event matcher receiving said event **(employee registering an absence)** from said distribution channel analyzer if said distribution channel analyzer determines that said event is likely to generate said increase in sales **{employee's absence creates a workshift that must be fulfilled; any substitute worker provided by a service provider generates an increase in revenue/income/"sales" that would**

not otherwise be available; therefore, any substitute worker provided by a service provider to fulfill a workshift vacated by an absent employee will result in an increase in sales/revenue/income}, and

(ii)   said event matcher selecting at least one of said service providers for said event from a service provider database **(of registered substitutes and potential replacements/substitutes)** [Column 2, lines 34-38, Column 5, lines 9-12].

As per claim 29, Thompson et al. teaches a system according to claim 28, further comprising:

an accounting manager,

said accounting manager configured to cooperated with said event matcher to provide an accounting functionality **(billing information for billing substitute fulfillment services 100)** for said at least one of said service providers [Column 9, lines 35-37, Figure 3].

As per claim 30, Thompson et al. teaches the system according to claim 29, wherein:

said database comprises a service provider profile database,

said service provider profile database containing informational data of said service providers **(necessary information relating to teachers, substitution criteria, registered substitutes and potential replacements/substitutes is entered and maintained in a database)** [Column 3, lines 51-54].

As per claim 31, Thompson et al. does not explicitly teach the system according to claim 28, wherein:

said system further utilizes a service provider profile manager for said service provider database,

said service provider profile manager allowing service providers to customize and manage profile data in said service provider database.

However, Official Notice is taken that it is old and well known that institutions and organizations would modify their profile to reflect updated skills, qualifications, services provided, needs, or qualifications required. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Thompson et al. to include means to allow institutions and organizations to modify their profile in order to provide an accurate representation of their skills, abilities, and requirements that are needed to evaluate their qualifications to provide services, or to evaluate services needed.

As per claim 32, Thompson et al. teaches the system according to claim 28, wherein:

said system further utilizes an event database,

said event database storing data relating to events for which a service

provider is selected by said event matcher **(database 34 that includes historical**

system use information) [Column 12, lines 48-49].

As per claim 33, Thompson et al. teaches the system according to claim 28,

wherein:

said distribution channel analyzer further utilizes a channel rules database

containing rules **(qualifications required for acceptable substitutes; necessary**

information relating to teachers, substitution criteria, registered substitutes, etc.

is entered and maintained in a database) to be applied to particular channels

[Column 2, lines 34-38, Column 3, lines 51-53].

As per claim 34, Thompson et al. teaches the system according to claim 28,

wherein:

said distribution channel analyzer further utilizes data and rules obtained from an

institutional or organizational database,

said institutional or organizational database containing additional

informational data of selected institutions or organizations **(prepared lists of**

candidates, or potential substitutes, substitution criteria, registered substitutes,

etc.) [Column 2, lines 35-38, Column 3, lines 51-54].

As per claim 35, Thompson et al. does not explicitly teach the system according 34, wherein:

said data and rules of said distribution channel analyzer further utilize an institutional or organizational profile manager,

said manager allowing said selected institutions or organizations to customize and manage profile data in said database.

However, Official Notice is taken that it is old and well known that institutions and organizations would modify their profile to reflect updated skills, qualifications, services provided, needs, or qualifications required. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Thompson et al. to include means to allow institutions and organizations to modify their profile in order to provide an accurate representation of their skills, abilities, and requirements that are needed to evaluate their qualifications to provide services, or to evaluate services needed.

Claim 49 recites limitations already addressed by the rejection of claim 35 above; therefore, the same rejection applies

As per claim 36, Thompson et al. teaches the system according to claim 28, wherein:

said system further comprises a subscription management service **(only authorized parties of interest can access)**, wherein:

at least one said unexpected period of inactivity is defined for tracking **(unexpected events, benefits, policies and daily announcements)** [Column 5, lines 17-25 and 51-60].

As per claim 42, Thompson et al. teaches an e-commerce method for enhancing sales of service providers **(temporary employment substituting for absent employees)**, said service providers in communication across networks and available to provide one or more specific service through directed sales to selected customers **(organizations requiring temporary, replacement or substitute workers)**, said method comprising the steps of:

(a)   automatically detecting at least one sales opportunity **(temporary employment)** based on at least one unexpected period of inactivity **(employee absence)** when a scheduled activity is blocked **{employee absence creates a workshift that must be fulfilled}** [Column 2, lines 5-7, Column 4, line 64 – Column 5, line 2];

(b)   analyzing said at least one sales opportunity **(a list of criteria for selecting an appropriate substitute 104, flags for special conditions 122)**, to determine whether said sales opportunity is a beneficial opportunity likely to generate an increase in sales **{providing a substitute/replacement worker results in a "sale", which generates revenue for the service provider}** [Column 9, lines 37-45];

(c)   matching said beneficial opportunity **(need for substitute/replacement employee)** with information from a subscriber profile database **(qualifications)** to select one or more of said service providers as a selected service provider **(potential substitutes)** [Column 15, lines 26-30]; and

(d)   notifying said selected service provider **(potential substitutes, interested parties, designated groups of people)** of said beneficial opportunity **{temporary employment}** [Column 13, lines 19-20 and 39-48 and Column 15, lines 32-35]; and

As per claim 43, Thompson et al. teaches the method according to claim 42, further comprising the step of:

providing an accounting functionality **(billing information for billing substitute fulfillment services 100)** for said one or more of said service providers **(potential substitute)** by analyzing events and transactions of actual sales **(potential substitute fulfilling need for worker substitution)** [Column 9, lines 35-37, Figure 3].

As per claim 44, Thompson et al. teaches the method according to claim 42, wherein:

said step of matching said beneficial opportunity with information from a subscriber profile database further comprises using a service provider profile database **(necessary information relating to teachers, substitution criteria, registered substitutes, etc. is entered and maintained in a database)** [Column 3, lines 51-54].

Although Thompson et al. does not explicitly teach the use of an external service provider profile database, it is old and well known in the art that databases may be accessed internally (as coupled with a computer system) or externally with the same functionality, thus making the database taught by Thompson et al. meet the limitations of the claim.

As per claim 45, Thompson et al. does not explicitly teach the method according to claim 44, further comprising the step of:

managing and customizing profiles of said service providers in said service provider profile databases.

However, Official Notice is taken that it is old and well known that institutions and organizations would modify their profile to reflect updated skills, qualifications, services provided, needs, or qualifications required. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Thompson et al. to include means to allow institutions and organizations to modify their profile in order to provide an accurate representation of their skills, abilities, and requirements that are needed to evaluate their qualifications to provide services, or to evaluate services needed.

As per claim 46, Thompson et al. teaches the method according to claim 42, further comprising the step of:

storing data of said events in an event database **(database 34 that includes historical system use information)** [Column 12, lines 48-49].

As per claim 47, Thompson et al. teaches the method according to claim 42, further comprising the step of:

obtaining rules **(qualifications required for acceptable substitutes, substitution criteria)** from a channel rules database **(necessary information relating to teachers, substitution criteria, registered substitutes, etc. is entered and maintained in a database)** to be applied to particular channels [Column 2, lines 34-38 and Column 3, lines 51-53]

As per claim 48, Thompson et al. teaches the method according to claim 42, further comprising the step of:

obtaining rules **(qualifications required for acceptable substitutes, substitution criteria)** from an institutional/organizational profile database containing data of selected institutions or organizations in which events may take place **(necessary information relating to teachers, substitution criteria, registered substitutes, etc. is entered and maintained in a database)** [Column 2, lines 34-38, Column 3, lines 51-53].

As per claim 50, Thompson et al. teaches the method according to claim 42, further comprising the step of:

tracking schedules of subscribed consumer or said service providers **(track the absences of each particular worker; the organization which requires temporary workers may designate the date and time for the position; schedule information, preferably through a pop-up calendar 106, and availability 126 {primarily for substitutes}; substitute schedule information is also stored in data record 403)** [Column 5, lines 46-47, 63-64, Column 9, lines 40-44, 53-54].

As per claim 55, Thompson et al. teaches an article of manufacture comprising a computer program product, said computer program product comprising a computer readable medium storing processor-executable program code:

said computer readable program code embodying a method comprising the steps of:

(a)   automatically detecting at least one sales opportunity **(temporary employment)** based on at least one unexpected period of inactivity **(employee absence)** when a scheduled activity is blocked **{employee absence creates a workshift that must be fulfilled}** [Column 2, lines 5-7, Column 4, line 64 – Column 5, line 2];

(b)   analyzing said at least one sales opportunity **(a list of criteria for selecting an appropriate substitute 104, flags for special conditions 122)**, to determine whether said sales opportunity is a beneficial opportunity likely to generate an increase in sales **{providing a substitute/replacement worker results in a "sale", which generates revenue for the service provider}** [Column 9, lines 37-45];

(c)   matching said beneficial opportunity **(need for substitute/replacement employee)** with information from a subscriber profile database **(qualifications)** to select one or more of said service providers as a selected service provider **(potential substitutes)** [Column 15, lines 26-30]; and

(d)   notifying said selected service provider **(potential substitutes, interested parties, designated groups of people)** of said beneficial opportunity {temporary employment} [Column 13, lines 19-20 and 39-48 and Column 15, lines 32-35].

7.   Claims 37-41 and 51-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al. as applied to claim 28 above, and further in view of Robert English's "Locked in Your Car? You Can Choose Who Helps You In And Out Of Your Jam" (hereafter referred to as English).

As per claim 37, although not taught by Thompson et al., English teaches a computer-based **(computer implemented)** system that utilizes an event matching system for service providers **(OnStar)** based on an unexpected change in a schedule of service **(accident, automobile crash)**, as per claim 36, wherein said system further utilizes a location tracker **(GPS system and cellular network)**, said tracker used to keep track of subscribed consumers **(OnStar members)**.

Both Thompson et al. and the English reference are directed towards the analogous art of providing emergency services in response to [automatically] identified

unscheduled/unplanned events; therefore, it would have been obvious to one of

ordinary skill in the art at the time of invention to modify the teachings of Thompson et

al. to include the location tracker as taught by English to determine the location of the

user, enabling an evaluation of nearby service providers most suitable to provide

prompt service that meet the needs of the user.

As per claim 38, Thompson et al. teaches the system according to claim 37,

wherein:

said location tracker further comprises a consumer profile database for storing

consumers' informational data **(database may store a business data record 130 with**

fields such as: the billing ad dress 132 of the customer organization, its mailing

address 134, billing contact 136, emergency contacts 138, phone numbers 140,

fax numbers 142, electronic mail addresses 144, and options selected 148)

[Column 9, lines 55-61, Figure 4].

Furthermore, the Onstar system taught by English utilizes the GPS system and a

cellular network to help (automobile) drivers with problems. Cars are registered to their

owners; thus, each vehicle's unique VIN (vehicle identification number) would be linked

to information about the vehicle's owner (name, address, etc.). Furthermore, English

discloses that Onstar is a subscription service that requires users to pay a monthly fee.

Inherently, Onstar stores information regarding their subscribers (car make and model,

subscriber name, address, etc.).

Both Thompson et al. and the English reference are directed towards the

analogous art of providing emergency services in response to [automatically] identified

unscheduled/unplanned events; therefore, it would have been obvious to one of

ordinary skill in the art at the time of invention to modify the teachings of Thompson et

al. to include a database storing consumer information because the resulting

combination would enable a matching of local service providers (based on the

consumer's current or future location) that are best equipped to meet the needs and

preferences of the consumer.

As per claim 39, Thompson et al. does not explicitly teach the system according

to claim 38, wherein:

said location tracker further utilizes a consumer profile manager, wherein:

said manager allows consumers to customize and manage profile data in said

database.

However, Official Notice is taken that it is old and well known that institutions and

organizations would modify their profile to reflect updated skills, qualifications, services

provided, needs, or qualifications required. It would have been obvious to one of

ordinary skill in the art at the time of invention to modify the teachings of Thompson et

al. to include means to allow institutions and organizations to modify their profile in order

to provide an accurate representation of their skills, abilities, and requirements that are

needed to evaluate their qualifications to provide services, or to evaluate services

needed.

As per claim 40, although not taught by Thompson et al., English teaches a

computer-based **(computer implemented)** system that utilizes an event matching

system for service providers **(OnStar)** based on an unexpected change in a schedule of

service **(accident, automobile crash)**, as per claim 37, wherein said system further

utilizes a tracking device **{the GPS system and cellular network transmitters located**

within the car} used to transmit location data continuously to said location tracker

(GPS system and cellular network).

Both Thompson et al. and the English reference are directed towards the

analogous art of providing emergency services in response to [automatically] identified

unscheduled/unplanned events; therefore, it would have been obvious to one of

ordinary skill in the art at the time of invention to modify the teachings of Thompson et

al. to include the location tracker as taught by English to determine the location of the

user, enabling an evaluation of nearby service providers most suitable to provide

prompt service that meet the needs of the user.

As per claim 41, although not taught by Thompson et al., English teaches a

computer-based **(computer implemented)** system that utilizes an event matching

system for service providers **(OnStar)** based on an unexpected change in a schedule of

service **(accident, automobile crash)**, as per claim 40, wherein said generator tracking device utilizes: GPS and wireless system.

Both Thompson et al. and the English reference are directed towards the analogous art of providing emergency services in response to [automatically] identified unscheduled/unplanned events; therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Thompson et al. to include the location tracker devices as taught by English to determine the location of the user, enabling an evaluation of nearby service providers most suitable to provide prompt service that meet the needs of the user.

As per claim 51, although not taught by Thompson et al., English teaches a method according to claim 50, further comprising the step of:

utilizing a tracking device **{the GPS system and cellular network transmitters located within the car}** to keep track of the location of said subscribed consumers **(OnStar members)**.

Both Thompson et al. and the English reference are directed towards the analogous art of providing emergency services in response to [automatically] identified unscheduled/unplanned events; therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Thompson et al. to include the location tracker as taught by English to determine the location of the

user, enabling an evaluation of nearby service providers most suitable to provide

prompt service that meet the needs of the user.

As per claim 52, although not taught by Thompson et al., English teaches a

method according to claim 51, wherein said tracking device generates said location data

from a source of positional data selected from the group consisting of: GPS and

wireless system.

Both Thompson et al. and the English reference are directed towards the

analogous art of providing emergency services in response to [automatically] identified

unscheduled/unplanned events; therefore, it would have been obvious to one of

ordinary skill in the art at the time of invention to modify the teachings of Thompson et

al. to include the location tracker devices as taught by English to determine the location

of the user, enabling an evaluation of nearby service providers most suitable to provide

prompt service that meet the needs of the user.

As per claim 53, Thompson et al. does not explicitly teach the method according

to claim 50, further comprising the step of:

storing a profile of at least one consumer in a consumer profile database.

However, the Onstar system taught by English utilizes the GPS system and a

cellular network to help (automobile) drivers with problems. Cars are registered to their

owners; thus, each vehicle's unique VIN (vehicle identification number) would be linked

to information about the vehicle's owner (name, address, etc.). Furthermore, English

discloses that Onstar is a subscription service that requires users to pay a monthly fee.

Inherently, Onstar stores information regarding their subscribers (car make and model,

subscriber name, address, etc.).

Both Thompson et al. and the English reference are directed towards the

analogous art of providing emergency services in response to [automatically] identified

unscheduled/unplanned events; therefore, it would have been obvious to one of

ordinary skill in the art at the time of invention to modify the teachings of Thompson et

al. to include a database storing consumer information because the resulting

combination would enable a matching of local service providers (based on the

consumer's current or future location) that are best equipped to meet the needs and

preferences of the consumer.

As per claim 54, Thompson et al. does not explicitly teach the method according

to claim 53, further comprising the step of:

managing and customizing said profile of said at least one consumer in said

consumer profile database.

However, Official Notice is taken that it is old and well known that institutions and

organizations would modify their profile to reflect updated skills, qualifications, services

provided, needs, or qualifications required. It would have been obvious to one of

ordinary skill in the art at the time of invention to modify the teachings of Thompson et

al. to include means to allow institutions and organizations to modify their profile in order

to provide an accurate representation of their skills, abilities, and requirements that are

needed to evaluate their qualifications to provide services, or to evaluate services

needed.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Peter Choi whose telephone number is (571) 272 6971.

The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Peter Choi
Examiner
Art Unit 3623

March 17, 2006

TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY